



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Notice

PN 97-98
May 14, 2004

CLAUSES AUTHORIZED FOR USE IN COMMERCIAL ACQUISITIONS

BACKGROUND: This PN revises the NASA FAR Supplement (NFS) by removing the NASA specific clause regarding Central Contractor Registration (CCR) from the list of clauses authorized for use in acquisitions of commercial items.

ACQUISITIONS AFFECTED BY CHANGES: None

ACTION REQUIRED BY CONTRACTING OFFICERS: None

CLAUSE CHANGES: None

PARTS AFFECTED: Changes are made in Part 1812.

REPLACEMENT PAGES: You may use the enclosed pages to replace Part 1812.

TYPE OF RULE AND PUBLICATION DATE: This PN was published as a final rule in the Federal Register (69 FR 26775 - 26776) on May 14, 2004.

HEADQUARTERS CONTACT: Celeste Dalton, Code HK, (202) 358-1645, email: Celeste.M.Dalton@nasa.gov.

James A. Balinskas
Director, Contract Management Division

Enclosures

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PART 1812
ACQUISITION OF COMMERCIAL ITEMS

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PART 1812
ACQUISITION OF COMMERCIAL ITEMS

Subpart 1812.1--Acquisition of Commercial Items--General

1812.102 Applicability.

(c) For the acquisition of commercial items of any value, the MidRange procedures described in NFS Part 1871 may be used to the extent they are consistent and compliant with FAR Part 12 and NFS Part 1812. Unless specifically stated, in any conflict between these parts the descending order of precedence is FAR Part 12, Part 1812, and Part 1871.

**Subpart 1812.3--Solicitation Provisions and Contract Clauses
for the Acquisition of Commercial Items**

1812.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f)(i) The following clauses are authorized for use in acquisitions of commercial items when required by the clause prescription:

~~(A) 1852.204-74, Central Contractor Registration.~~

(BA) 1852.214-71, Grouping for Aggregate Award.

(CB) 1852.214-72, Full Quantities.

(DC) 1852.215-84, Ombudsman.

(ED) 1852.219-75, Small Business Subcontracting Reporting.

(FE) 1852.219-76, NASA 8 Percent Goal.

- (~~GF~~) 1852.223-70, Safety and Health.
- (~~HG~~) 1852.223-71, Frequency Authorization.
- (~~HH~~) 1852.223-72, Safety and Health (Short Form).
- (~~JJ~~) 1852.223-73, Safety and Health Plan.
- (~~KJ~~) 1852.223-75, Major Breach of Safety and Security.
- (~~LK~~) 1852.228-72, Cross-Waiver of Liability for Space Shuttle Services.
- (~~ML~~) 1852.228-76, Cross-Waiver of Liability for Space Station Activities.
- (~~NM~~) 1852.228-78, Cross-Waiver of Liability for NASA Expendable Launch Vehicles.
- (~~ON~~) 1852.246-72, Material Inspection and Receiving Report.

(ii) No other provisions and clauses prescribed in the NFS or center documents shall be used in acquisitions of commercial items, except as permitted by FAR 12.302.

1812.302 Tailoring of provisions and clauses for the acquisition of commercial items.

(c) The Assistant Administrator for Procurement (Code HS) is the approval authority for waivers. Requests shall be prepared and submitted in accordance with 1801.471.

Subpart 1812.4--Unique Requirements Regarding Terms and Conditions for Commercial Items

1812.404 Warranties.

(b) In acquisitions under the Simplified Acquisition Threshold specified in FAR Part 13, no express warranty should be required other than the offeror's commercial warranty.

Subpart 1812.70--Commercial Space Hardware or Services

1812.7000 Prohibition on guaranteed customer bases for new commercial space hardware or services.

Public Law 102-139, title III, Section 2459d, prohibits NASA from awarding a contract with an expected duration of more than one year if the primary effect of the contract is to provide a guaranteed customer base for, or establish an anchor tenancy in, new commercial space hardware or services. Exception to this prohibition may be authorized only by an appropriations Act specifically providing otherwise.